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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,462	08/22/2001	Lisa Dhar	495812000300	8990
20872	7590	11/29/2004	EXAMINER	
MORRISON & FOERSTER LLP 425 MARKET STREET SAN FRANCISCO, CA 94105-2482			AHMAD, NASSER	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,462

Applicant(s)

DHAR ET AL.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-97,99 and 101-108 is/are pending in the application.
- 4a) Of the above claim(s) 1-93 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 94-97, 99 and 101-108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 13, 2004 has been entered.

Rejection Withdrawn

2. Claims 94-105 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell for reasons of record in the Office Action mailed on March 16, 2004.

Response to Arguments

3. Applicant's arguments with respect to claims 94-97, 99 and 101-110 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 94-97, 99 and 101-108 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell.

Campbell relates to a multi-layer article comprising an article having a first surface of at least partially cured first adherent and a second opposite surface of having at least partially cured second adherent (abstract and col. 3, lines 9-12). The multi-layer article has a surface flatness and a transmission flatness of about 0.05 to about 0.25 waves/cm at wavelengths of about 0.4 to 0.7 microns (col. 6, lines 28-32). The article can be 0.5 or greater (col. 6, lines 51-53). The adherent is disposed between the article and a substrate (col. 6, lines 54-57) which can be made from glass, polycarbonate, etc. material (col. 11, lines 31-43). The substrate can have at least one hole as shown in figure-4B and disclosed in col. 5, line 51 to col. 6, line 3. The substrate can have any shape, particularly circular and have a thickness of 0.1 to 1.0 mm. In col. 12, lines 60-64, Campbell teaches that the article is typically "significantly free" of from divots and peaks, which would infer to the presence of some relief pattern or diffraction grating roughness. The multi-layer article is used in optical systems such as prisms, beam splitters, filters, lenses, etc. (col. 12, lines 31-34). The adherent can be cured utilizing thermal or photocurable energy (col. 9, lines 46-47).

As for the Strehl value being 0.9 or greater, with all conditions and properties being the same for the multi-layered article, the Strehl value would be inherent of the optical product.

The intended use phrases such as "for dispensing", etc. have not been given patentable weight because said phrase is not deemed to be a positive limitation.

Response to Arguments

6. In response to applicants' argument filed on July 13, 2004 that Campbell fails to disclose a substrate of a multi-layer article having a hole, fails to suggest that the substrate has "at least one hole", and that in figure-6C of Campbell, the holder (20) is not part of the article but are merely used in its manufacture. These are not deemed to be persuasive because Campbell's holder (20), in combination with the layers (24), (26) and (28) forms the claimed multi-layered article as claimed. The article of Campbell, before it is separated from the substrate or holder (20), has the same structure as that being instantly claimed, including the presence of at least one hole. as shown in the figure-4B or 6C.

Regarding applicant's argument that Examiner has improperly inferred to the presence of a relief pattern or diffraction grating from Campbell without sufficient evidence or rationale, applicant is informed that, as explained in the rejection of claims 103 and 104 hereinabove, the presence of divots and peaks would provide for relief or diffraction pattern. A review of the specification, page-29, lines 1-4, as per applicant's direction to

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the teaching of the relief pattern or diffraction grating, however, no further explanation could be found as to the definition of said pattern or grating. As it is noted that applicant has failed to show that the surface peaks divots present in Campbell would not function as a relief pattern or diffraction grating.

As for the allegation that Campbell does not disclose a quarter wave plate, applicant's attention is drawn to Campbell's use as an optical article and as shown in col. 12, lines 31-34, the article is shown to have exemplary use in a variety of optical systems.

Hence, its use as a quarter wave plate would be part of the optical article, unless shown otherwise by the applicant.

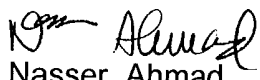
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.
November 28, 2004.